

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
A National Broadband Plan for Our Future -	)	GN Docket Nos. 09-47, 09-51, 09-137
Spectrum for Broadband	)	
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	)	
	)	

**Comments**

The State of New York ("the State") hereby submits comments in response to the Federal Communication Commission's ("Commission") National Broadband Plan public notice #6 dated September 23, 2009.

**Introduction:**

Many have recently raised the issue that in the United States there is insufficient spectrum currently allocated to commercial wireless broadband, threatening plans to meet aggressive wireless broadband implementation and performance goals. Network providers warn that technology alone can not meet growing market demand for wireless broadband services and performance. The American Recovery and Reinvestment Act ("ARRA") of 2009, and the efforts by the Commission to develop a National Broadband Plan, provide an opportunity to develop a comprehensive and cohesive national spectrum allocation strategy, that addresses the future desired demand for both wireline and wireless broadband.

The State is extremely supportive of the Commission's efforts to incorporate a wireless broadband spectrum allocation strategy within the National Broadband Plan. New York believes that a robust, feature-rich, and high performance wireless broadband infrastructure is critical to the economic health of this nation. Ubiquitous access to broadband, both wired and wireless, impacts all sectors of the economy and is critical to providing economic opportunity to our citizens both in New York and across the nation.

**New York State Role:**

In New York, Governor Paterson has spotlighted universal broadband across the State as a critical keystone to creating equal access to opportunity in the innovation economy. In this respect, much still needs to be done. In New York, only fifty-two percent of homes have personal computers. Forty-eight percent of households with computers still have not subscribed to high-speed broadband service, while seventy-eight

percent of households with computers still use some type of dial up service.<sup>1</sup> According to some high-speed Internet service providers, over a million citizens in New York remain without access to broadband services.

To address this deficiency, New York established the Universal Broadband Council, which has developed the Universal Broadband Strategy ("Strategy") for the State. Key elements of this Strategy include infrastructure build-out, digital literacy, economic and workforce development, and expansion of online government services for citizens, businesses and visitors. For New York to realize its broadband vision, the environment for growing wired and wireless broadband services needs to be supported on many fronts. Some commercial network providers point out that demand for wireless broadband services is exploding and will continue to do so for the foreseeable future. New York State's Universal Broadband Strategy can only be successful if network providers, both large and small, are able to deploy services with successful business models that offer citizens choice, abundant features, high performance, and low cost, that are attractive enough to increase the take rate sufficiently to recoup their investment. Given projected growth rates, the National Broadband Plan must promote policies which encourage both the sufficient availability of spectrum and the maximally efficient use of the spectrum allocated.

#### The Technology:

Recent trends suggest that current third generation ("3G") wireless broadband networks will soon begin to transition to fourth generation ("4G") networks, featuring technology standards like Long Term Evolution ("LTE") and Worldwide Interoperability for Microwave Access ("WiMAX"). Such 4G technology platforms will provide better performance with available spectrum however, more spectrum may be needed to meet the anticipated exponential increase in demand. New York State believes the Commission must anticipate this evolution and develop a comprehensive strategy that ensures adequate spectrum is available to best benefit society.

As noted by the Commission, the Cellular Telecommunications Information Association ("CTIA") contends that mobile carriers operate with just under 450 MHz of spectrum, which according to the CTIA compares unfavorably with many other Organization for Economic Cooperation and Development (OECD) countries. Given the current mediocre standing of the United States for general broadband availability, cost, and performance<sup>2</sup>, policies should be adopted now to ensure the advancement of wireless broadband is not stymied. If projected mobile broadband growth rates are realized, it appears inevitable that more spectrum will be required by the commercial wireless industry.

While commercial mobile carriers should be given access to additional spectrum to meet legitimate needs when technology and spectral efficiency can not meet the requirement, the Commission must also be sensitive to the spectrum needs of public safety. The State strongly believes that public safety needs a dedicated broadband network with adequate spectrum dedicated to public safety mobile services. Recently, the State and New York City submitted waiver requests to the Commission to deploy 700 MHz public safety broadband across the state. This request is dependent upon the availability of broadband spectrum for public safety use.

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<sup>1</sup> New York Governor Paterson, press release, "New York State's Economy: A Year of Turmoil; Leading the National Recovery, ([http://www.state.ny.us/governor/press/press\\_bold\\_steps.html](http://www.state.ny.us/governor/press/press_bold_steps.html))

<sup>2</sup> Explaining International Broadband Leadership, The Information Technology and Innovation Foundation, May 2008 (<http://www.itif.org/files/ExplainingBBLeadership.pdf>)

New York's public safety strategy does recognize the importance of adopting technological standards which are compatible with commercial standards, when possible. As a consequence, LTE has been chosen as the platform to support the planned public safety broadband network in the State. Given LTE is also the platform of choice for many planned commercial networks, the extensive deployment of the technology should provide both technological and economic benefits to public safety. It also reduces the complexity in supporting inter-network roaming across the State, if required.

International Perspective:

The State also encourages the Commission to consider how spectrum is allocated internationally when formulating its own spectrum allocation plans within the United States. When possible, United States spectrum use and allocation should be similar to widely adopted international spectrum allocation strategies. This policy can potentially reduce the cost of end user equipment, speed up international licensing agreements, and improve network roaming options for broadband users who travel internationally. New York further believes the Commission should begin to address this issue at the next World Radiocommunications Conference.

Respectfully submitted,

  
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